



MEETING DATE: 03/18/2013

ITEM NO:

DESK ITEM A

4

COUNCIL AGENDA REPORT

DATE: MARCH 18, 2013

TO: MAYOR AND TOWN COUNCIL

FROM: GREG LARSON, TOWN MANAGER

Pratt for

SUBJECT: HILLBROOK SCHOOL PUBLIC DISCUSSION
DISCUSS NEIGHBORHOOD CONCERNS AND STAFF INTERPRETATION
OF HILLBROOK SCHOOL'S EXISTING CONDITIONAL USE PERMIT.

REMARKS:

Staff received questions from Council members regarding (1) enrollment limits; (2) process if the applicant does not agree with staff; (3) hours of operation; (4) staggered start and end times; and, (5) specified peak hours. Each of these items is answered below.

1. Enrollment is limited to 315 students. The school could not operate with 315 students in the morning and with a different group of 315 students in the afternoon. On the other hand, the school could operate with 315 students in the fall and with a different group of 315 students in the spring and summer. The condition does not require that the 315 students be the same 315 students for an entire year.
2. If staff continues to work with the applicant and the applicant disagrees with staff's interpretation and continues operating while not complying with their conditional use permit, staff may initiate an administrative citation process, including fines.
3. Hillbrook School does not have hours of operation specified in the existing conditional use permit.
4. Staggered start and end times are when one or a group of grades start or end at one time, while the remaining grade or grades start or end at a different time. For example, staggered start times may include kindergarten starting at 8:30 a.m., grades 1 through 4 starting at 8:15 a.m., and grades 5 through 8 starting at 8:00 a.m.
5. Hillbrook School's existing conditional use permit specifies the number of vehicle trips that may leave between the specific hours – 7:30 a.m. to 8:30 a.m. and 2:30 a.m. to 3:45 p.m., which at the time approval was considered to include Hillbrook School's peak traffic hours. Peak traffic hours are periods of one hour where the volume of traffic is the highest. It should be noted that one of the time periods specified in the conditional use

PREPARED BY: Todd Capurso, Director of Community Development

SCB

Reviewed by: _____ Assistant Town Manager *Q* Town Attorney _____ Finance

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MAYOR AND TOWN COUNCIL
SUBJECT: Hillbrook School Public Discussion
March 18, 2013

permit is greater than one hour and, therefore, that time period specified in the conditional use permit includes more than just a peak traffic hour.

The Town received an additional public comment (Attachment 8).

ATTACHMENTS:

Received Under Separate Cover

1. Chronological History for 2011
2. Conditional Use Permit Table of Violations received April 26, 2012 (nine pages)
3. Resolution 2001-48 (Architecture and Site Conditions are excluded from the attachment) with Exhibit A (Conditional Use Permit Conditions of Approval)
4. Two Code Compliant Complaints, received February 6 and 26, 2013
5. Letter and attachments from Barbara Dodson, received March 11, 2013 (122 pages)
6. Letter and attachments from Barbara Dodson, received March 13, 2013 (42 pages)
7. Public Comment received by the Town Council and Town Manager for the period of October 1, 2012 through March 15, 2013

Received with this Desk Item

8. Public Comment from Joseph J. Sordi, received March 18, 2013 (12 pages).

Joseph J. Sordi
212 Marchmont Drive
Los Gatos, Ca 95032

March 18, 2013 **RECEIVED**

Los Gatos Town Council
110 East Main Street
Los Gatos, California 95030

MAR 18 2013

Hand Delivered

TOWN OF LOS GATOS
PLANNING DIVISION

Subject: The Council Agenda Report dated March 12, 2013 to the Mayor and Town Council from Greg Larson, Town Manager entitled HILLBROOK SCHOOL PUBLIC DISCUSSION DISCUSS NEIGHBORHOOD CONCERNS AND STAFF INTERPRETATION OF HILLBROOK SCHOOL'S EXISTING CONDITIONAL USE PERMIT

Dear Mayor and Council Members:

The Report was made available to the general public on Friday, March 12. As a result there was not time to respond before this late date. The following are my personal observations and comments as they apply to subject matter under various heading in the Report.

Under C. Staff Determinations on Page 2.

The last sentence of the first paragraph states that "...staff reviewed recent written communications from Hillbrook School that describe Hillbrook School's understanding and position on its exiting CUP conditions of approval". To my knowledge, neighbors and the general public were not made privy to what is in those written communications, even though Hillbrook has complete access to all letters from neighbors to the Planning Commission and Town Staff.

Under C. Staff Determinations on Page 2, last paragraph.

The last sentence in the paragraph states that " ...Hillbrook School could contract out to provide certain activities under Hillbrook's direction and control..." that "these would not constitute third-party leases." Staff should make clear that such third party services are for Hillbrook enrolled students only, not for any students, campers, or others who are provided the third party services for a fee paid to the third party or even provided gratis by the third party.

After School Programs

The third entry of the table on Page 3 addresses after school programs. The "Staff Determination for Existing CUP" column states that Programs for children grades K through 8 are allowed, but may not exceed the maximum allowed number of students". That can be interpreted to mean that Hillbrook may enroll up to 315 students for its regular daily classes and up to 315 *different* students for after school classes, totaling up to 630 students on campus each day. It should be made clear that the after school classes are only for the regularly enrolled 315 students. This was Hillbrook's position in 2001 when Sarah Bayne, then Head of School, said that after school activities were for Hillbrook students only.

Table on Page 3 and 4:

Staff has limited its interpretation of the CUP to activities claimed to be violations of the CUP. The stated SUBJECT of this report includes "STAFF INTERPRETATION OF HILLBROOK SCHOOL'S EXITING CONDITIONAL USE PERMIT".

That should include the interpretation of the conditions themselves, not just purported violations to some of those conditions. The CUP conditions are difficult to interpret because they are so lacking in specifics and in how to determine whether or not the School is adhering to each condition. Staff should at least have addressed the more important conditions as follows:

1. How does Staff verify that Hillbrook adheres to Condition 12, which states traffic counts shall be taken twice a year and that the maximum number of vehicles leaving the school during each of the periods of 7:30-8:30 AM and 2:30-3:45 PM shall not exceed 165 ?

Taking counts only twice a year means that the School can violate the limit of 165 all the other days of the school year with impunity. That being so, then the condition is useless if it is literally interpreted. For example, on last Friday, I counted 221 vehicles leaving the neighborhood at the intersection of Marchmont Dr and Hilow Ave during the PM period. The count at the Hillbrook gate surely approached that, yet there is no way to know, using only 2 counts a year, that Hillbrook violated the 165 limit on that day or any other day except the 2 days that counts are taken.

2. How does Staff validate the contents of twice yearly carpool participation reports submitted in accordance with Condition 3 ? In the past, Hillbrook has simply reported what percentage of parents agree on paper to carpool, not what percentage actually do carpool (see Attachment 1). Results from a study done by Hexagon traffic consultant retained by the School in 2001 found that carpool participation ranged around 35% during that time for the morning period (see Attachment 2). The method used by Hexagon to determine actual carpool participation, when applied over the years for carpooling as well as other means of traffic mitigation continues to result in participation around 35%, far below numbers given in the twice yearly reports. In recent twice yearly Traffic Reports, Hillbrook has submitted claims of percentages of actual participation in traffic mitigation that grossly exaggerate the actual number (see Attachment 3). Staff could have evaluated actual carpool participation by using the same method used by Hexagon.

3. How does Staff interpret Condition 4 which states that enrollment shall be limited to 315 ? When this condition was written, it seemed clear that enrollment meant the number of students fully enrolled to attend classes every day during the regular school year. Students other than the 315 so enrolled may not attend classes during other parts of the day or during the summer months. In fact, there is nothing specifically addressing summer activity in the CUP.

4. How does Staff interpret Condition 10 which states that Hillbrook may not rent or lease to third parties ? The Staff report does state on the bottom of page 2 that the School could contract out to provide certain activities, but it does not say that these activities are for Hillbrook enrolled students only. Can Hillbrook contract out to third parties to provide activities for non Hillbrook enrolled students?

Further Action Column

In the "Further Action" column of the table beginning on Page 3, Staff repeatedly states that Hillbrook is "to include a description of programs or activities in CUP modification application to clarify how

such program or activity will continue to meet requirements of the CUP". But this meeting is about the current CUP. Neighbors have been warned to stick to the current CUP, not to address modifications requested in the Hillbrook application. Staff is mixing modifications required to fix the current CUP with modifications Hillbrook is requesting to extend its current CUP.

It makes no sense to mix modifications to the current CUP to clarify its content with modifications requested by the Hillbrook School to extend the CUP. First, the CUP should be modified to fix it. Then, Hillbrook can resubmit its application (once again) to seek extensions to the CUP to allow for an increase in enrollment. Both Barbara Dodson, representing the neighbors, and I have submitted requests for modification to the current CUP. Consideration of those requests for modification makes more sense than relying on Hillbrook to make further modifications to its current application. The neighbors have a stake in this, and their voices should be heard. Using only suggested modifications to the CUP by Hillbrook is like inviting a fox into the hen house.

What is particularly galling to me and to many of my neighbors is that Staff and the School are still suggesting possible changes to the School's application to modify its CUP ! The application was first submitted on Feb 1 of 2012, resubmitted again in July of 2012, and yet again 6 months ago on September 20 of 2012.

That last submission must have been "deemed complete" by Staff because Staff has gone forward in processing the application. Staff has been remiss in not following normal procedure and formally announcing in writing that the application was deemed complete. That process was followed in 2001 when Hillbrook last requested a modification (see Attachment 4). Once the application is deemed complete, how is it possible that Hillbrook is allowed to modify the application on an ongoing basis ? For neighbors, it's like trying to hit a moving target.

Finally, please note that there is absolutely nothing in the current CUP that defines summer activity. Strictly speaking, activities not directly addressed in the CUP are not allowed. In fairness, Hillbrook has been allowed a long standing use of its campus for summer activity with no complaint from the neighbors or the town. That past usage should serve as a basis for modifying the CUP to address summer activity.

In the table on Page 4, Staff addresses "Hillbrook Summer Camps", stating that such camps "may not exceed the maximum number of students". Allowing summer campers up to the current maximum number of 315 students would greatly increase summer traffic far beyond what has occurred in past summers. Traffic during the regular school year is higher than is normal for residential streets, even with reduced traffic due to implementation of improved traffic mitigation measures, but the situation already exists. There is nothing to be done but to try to keep traffic at a minimum. No one is suggesting that the School close because traffic exceeds normal on Marchmont Drive.

However, summer traffic is not already too high. To allow a maximum enrollment for the summer months the same as for the regular school year would make the summers as bad or worse than the regular school year. This should not be allowed. An enrollment limit and a traffic limit commensurate with past summer activity should be defined, independent of regular school year activity.

General Comment

Traffic is the single most important issue. If a CUP could be defined that places reasonable, measurable limits on traffic during peak periods and on traffic for the entire day for both the normal school year

and for the summer session, other problems would be greatly diminished or even melt away. Hillbrook already has put a permanent traffic counter at its gate. Hillbrook could publish peak period traffic counts and full day counts each day. Limits could apply over an average period of time so that no single high count would result in a violation. The counts that Hillbrook has attained through improved traffic mitigation measures could be used as a basis for establishing limits.

Comment on the Handling of the Hillbrook Application to Modify its CUP

With regard to the Hillbrook application to modify and extend its CUP, it seems by outward appearance, that Staff and the Hillbrook School are working together so that Hillbrook may finally submit a modified application that will allow Staff to recommend approval to the Planning Commission. Hillbrook has submitted the final version of its application 6 months ago on September 20, 2012.

Staff should recommend approval or disapproval of the Hillbrook application based on what is in that submission. Allowing and even aiding Hillbrook School in continually modifying its application puts neighbors at the disadvantage of having their letters to the Planning Commission used as input for the School to answer any show stoppers or meaningful comments in its next version of the application.

Staff placed the hearing for the Hillbrook application on the December 12, 2012 Planning Commission agenda and announced that meeting to the neighbors, only to cancel at the last minute. Staff should have made the determination that it was not prepared for the December 12 Planning Commission meeting before it was placed on the agenda. Neighbors submitted letters to the Planning Commission to be considered on that date, only to have the date postponed until sometime in the Fall of 2013. It's a gambit that presented to the neighbors a "final" version of the application, only to have it withdrawn and resubmitted after neighbors made what they thought was their final effort to respond to the application.

Now the neighbors are in limbo until the next shoe drops. Will yet another version of the Hillbrook application be submitted? Will we again have to submit letters addressing the new version to the Planning Commission? How is Staff working with Hillbrook to modify its CUP? Will the ball be kicked down the road once again after the Fall date if it appears that the Hillbrook application might be rejected by the Planning Commission?



300 Marchmont Drive
Los Gatos
California 95032

RECEIVED

FEB 28 2003

TOWN OF LOS GATOS
PLANNING DEPARTMENT

25 February 2003

Sandy Baily
Town of Los Gatos

Dear Sandy:

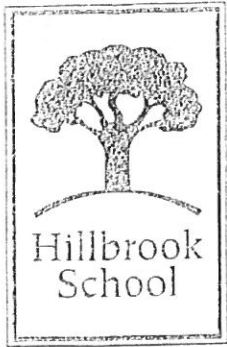
As required by Hillbrook School's Conditional Use Permit, we are attaching a summary of carpool statistics for the month of February.

I hope this finds you well.

Sincerely,

Sarah Bayne
Head of School

ATTACHMENT 1



300 Marchmont Drive
Los Gatos
California 95032

Hillbrook School Carpool Counts: February 2003

Number of Families carpooling: 177

Percentage of Families carpooling: 77%

2001/2002 Hillbrook School Carpool Form

My family participates in a carpool to Hillbrook School.

Name:

Address:

Tinor
240 Alexander
JE 95030

We carpool with the following families:

Name:

Name:

Name:

Southern

Number of families in carpool:

Number of children in carpool:

2
4

Complete and mail this form to:

Hillbrook School
300 Marchmont Drive
Los Gatos, CA 95030

EXHIBIT A
OF ATTACHMENT 1

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Hillbrook School plans to implement the following plans:

- The Carpool Coordinator will reconvene the Committee each August to connect with all new families to the school, generate mailings and continue phone contact with all parents.
 - Each new family to Hillbrook will be accepted if they agree to carpool.
 - Vanpooling by a private company is an option for the 2001-2002 school year.
3. Staff will spot check the number of car trips for the next three months. Analysis: The applicant worked with the Director of Parks and Public Works and hired Hexagon Traffic Consultant to conduct the traffic counts at their expense. The counts were done between the hours of 7:30 AM to 8:30 PM in January, March and April. Following are the traffic counts by Hexagon:

	<u>IN</u>	<u>OUT</u>	<u>ESTIMATED IN BOUND STAFF</u>	<u>STUDENTS</u>
January 2001	190	161	29	161
March 2001	178	145	33	145
April 2001	Not submitted yet			

Town staff conducted a count on April 4, 2001 between the hours of 7:30 AM and 8:30 AM (which was the same date and time Hexagon was conducting the April count) and counted a total of 175 vehicles entering the site and 148 vehicles leaving the site. The neighbors conducted a 24 hour video count on February 13, 2001 (counts are available in the file). Between the hours of 7:30 AM and 8:30 PM, they counted 183 vehicles entering the site and 145 trips leaving the site.

The Conditional Use Permit limits the enrollment for Hillbrook School to not exceed 315 students. There are currently 239 families which make up the enrollment of 315 students. Based on the number of families registered at Hillbrook School and Hexagon's traffic counts, Hexagon has estimated that 36 percent of the families carpooled in March. Using Hexagon's analysis, approximately 29 percent of the families carpooled in January and approximately 35 percent carpooled in April.

ADDITIONAL CONDITIONS:

If Council determines that the Master Plan should be approved, staff recommends that Council consider incorporating the following additional conditions of approval to Conditional Use Permit PRJ-99-062. These additional conditions should help reduce the traffic burden for the neighborhood.

1. The Police Department has found a vendor that sells speed boards that are a self contained radar and speed display sign. The sign is designed to measure and display the speed of vehicles and is permanently installed on streets where speeding has been identified as a problem. These devices have been shown to be effective at deterring speeding (see Attachment 21). The boards can be mounted on electroliers and the electricity that is used

ATTACHMENT 2

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Hillbrook School Trip Generation

Count Date	AM Peak Hour Trips		Estimated Inbound	
	In	Out	Staff	Students
January 2001	190	161	29	161
March 2001	178	145	33	145

WAS STUDENT #

Carpooling Calculations: $239 \text{ families} \times 95\% \text{ (absentee factor)} = 227$ inbound cars with no carpooling. Measured = 145 inbound cars.
Carpooling % = $(227 - 145) / 227 = 36\%$

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OF ATTACHMENT 2.

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Reporting only the number of families who "sign up for" various means of transportation is deceptive. The actual number who do participate in busing, carpooling, and walk/riding is very different, as shown in the following.

Hillbrook has 220 families (from Hillbrook web site page, At a Glance).

From September 2011 Transportation Report:

Mode of Transportation	# of Families Signed Up For	Percentages	# Of Exits
Bus	44	20	2
Carpool	134	61	60*
Walk/Bike	11	5	0
Ride Alone	31	14	31
Totals	220	100	93

* Assumes 2.25 families per vehicle, same factor used by Hexagon Traffic Consultant

The September 20, 2012 Hillbrook Letter of Justification states that, "our community typically generates 135 vehicle exits during peak periods".

Using Hexagon formula, $220 - 135 = 74$ - Number who bus, carpool, or walk/ride.
 $74/220 = 34\%$ who bus, carpool, or walk/ride.

According to the report, 93 exits and 86% participation are required.

EXHIBIT 1
OF ATTACHMENT 3

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Date: October 19, 2000
For Agenda Of: October 25, 2000
Agenda Item: 6

REPORT TO: The Planning Commission
FROM: The Development Review Committee
LOCATION: 300 Marchmont Drive
Project Application PRJ-99-062 (Conditional Use Permit)
Project Application PRJ-99-063 (Architecture and Site)

Requesting approval of a Conditional Use Permit for a Master Plan of Hillbrook School and approval of an Architecture and Site application to demolish an existing classroom building and to construct a new classroom building adjacent to the old building on property zoned HR-1.
PROPERTY OWNER/APPLICANT: Hillbrook School

DEEMED COMPLETE: March 20, 2000

FINAL DATE TO TAKE ACTION BY: Final Action was taken

FINDINGS:

- As required by Section 29.20.150 of the Town Code for granting a Conditional Use Permit.
- That this project is Categorically Exempt pursuant to Section 15314 of the State Environmental Guidelines as adopted by the Town.

CONSIDERATIONS: As required by Section 29.20.150 of the Town Code for Architecture and Site applications.

ACTION: The decision of the Planning Commission is final unless appealed within ten days.

EXHIBITS:

- A. Resolution 2000-75
- B. Report to Planning Commission for the meeting of April 12, 2000 (Exhibits A, C, D, and E are excluded).
- C. Letter from Jeffrey and Annemone Barnett (one page) received October 13, 2000.
- D. Conditions of Approval for the Conditional Use Permit.
- E. Conditions of Approval for the Architecture and Site Application.
- F. Packet from applicant, received September 29, 2000.

RECOMMENDATION
SUMMARY:

Approval, subject to conditions if the direction of the Town Council has been met.

A. REMARKS:

1. Town Council Direction

The Planning Commission considered this matter on April 12, 2000 and approved the applications subject to conditions. See Exhibit B for the report on this project. The decision of the Planning Commission was appealed. Town Council considered the appeal on June 5, 2000 and remanded the matter to the Planning Commission with the direction that the plans and design be evaluated for the following (Exhibit A):

- a. Number of parking spaces permitted under the Conditional Use Permit. Staff Note: The work proposed does not require additional parking spaces. The applicant has stated that they have added twenty

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